

FEB 23 1977

MICHAEL RODAK, JR., CLERK

NO. 76-641

IN THE
Supreme Court of the United States
OCTOBER TERM, 1976

P. C. PFEIFFER COMPANY, INC., AND TEXAS
EMPLOYERS' INSURANCE ASSOCIATION,
Petitioners

v.

DIVERSION FORD AND DIRECTOR, OFFICE OF
WORKERS' COMPENSATION PROGRAMS,
UNITED STATES DEPARTMENT OF LABOR

AYERS STEAMSHIP COMPANY AND TEXAS
EMPLOYERS' INSURANCE ASSOCIATION,
Petitioners

v.

WILL BRYANT AND DIRECTOR, OFFICE OF
WORKERS' COMPENSATION PROGRAMS,
UNITED STATES DEPARTMENT OF LABOR

On Petition For Writs Of Certiorari To The United
States Court Of Appeals For The Fifth Circuit

MEMORANDUM FOR THE RESPONDENT,
WILL BRYANT

ARTHUR L. SCHECHTER
Attorney for Respondent

Of Counsel:
SCHECHTER & SHELTON, INC. Houston, Texas 77002

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**MEMORANDUM FOR THE RESPONDENT,
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This case presents the question as to whether a waterfront worker, injured in a warehouse immediately adjacent to a pier in Galveston, Texas, comes within the intended humane reach of the definition of "EMPLOYEE"

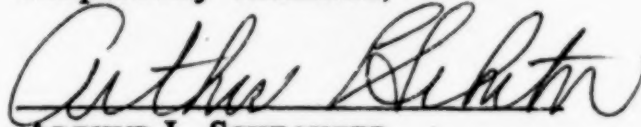
of Section 2(3) of the Longshoremen and Harbor Workers' Act as amended, 86 Stat. 1251, 334 U.S.C., 902 (3).

At the Port of Galveston, loads of cotton are first deposited at various shoreside warehouses by inland shippers. This cotton is then subsequently removed by dray wagons to pierside warehouses where they are eventually loaded onto seagoing vessels. Mr. Bryant was injured unloading a bale of cotton from a dray wagon.

Respondent, WILL BRYANT, joins the Federal Respondent in its belief that the same fundamental questions presented in *Northeast Marine Terminal Company v. Caputo*, Number 76-444, and *International Terminal Operating Co. v. Blundo*, Number 76-454, in which petitions for Writs of Certiorari were granted on December 6, 1976, are raised in the instant case.

Therefore, it is believed that the Court's resolution of *Caputo* and *Blundo* may well resolve the issues of this case. Therefore, consideration, in the interest of judicial economy, of this case should await resolution of *Caputo* and *Blundo*.

Respectfully submitted,



ARTHUR L. SCHECHTER
Attorney in Charge for
Respondent, WILL BRYANT

Of Counsel:

SCHECHTER & SHELTON, INC.
2080 Two Shell Plaza
Houston, Texas
February, 1977.

CERTIFICATE OF SERVICE

This hereby certifies that true and correct copies of the Respondent's Memorandum has been mailed, certified mail to Mr. Robert H. Bork, Solicitor General, Department of Justice, Washington, D. C. 20530, Mr. Alfred G. Albert, Acting Solicitor of Labor, Department of Justice, Washington, D. C. 20530, Ms. Laurie M. Streeter, Department of Justice, Washington, D. C. 20530, Mr. Joshua T. Gillelan, II, Attorneys Department of Labor, Washington, D. C. 20210, Mr. Robbins Brice, Royston, Rayzor, Vickery & Williams, One Shell Plaza, Houston, Texas, 77002, and Mr. Lee H. Hollis, Department of Labor, Post Office Bldg., Room 212, Galveston, Texas, 77550 on this the 28th day of February, 1977.



ARTHUR L. SCHECHTER